

The Retailers' Occupation Tax Act provides an exemption for tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors of such interstate carriers. See 86 Ill. Adm. Code 130.340. (This is a GIL.)

April 21, 2008

Dear Xxxxx:

This letter is in response to your letter dated June 5, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We have purchased a fleet of motor vessels for work on the ABC River (STATE1 and STATE2 sides) and the XYZ River (STATE2). These motor vehicles will be used to transport empty and loaded barges from line boats to our fleet. We will then take these barges to area docks to be loaded or unloaded. After that process, we will then take the barge back to our fleet and then put the barge in the line boat's tow when they come by.

We are requesting the ruling department give us a tax exemption for upkeep and repair items used on these vessels to keep them operational for rolling stock purposes.

If you need further information, please contact me.

DEPARTMENT'S RESPONSE

The Retailers' Occupation Tax Act provides an exemption for tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors of such interstate carriers. See 35 ILCS 120/2-5(12) and (13). The exemption is described in 86 Ill. Adm. Code 130.340, the Department's Regulation concerning the exemption for rolling stock, which can be found on the Department's website.

In order to claim the rolling stock exemption for a boat, the carrier must be able to document that it has authority to operate as an interstate carrier for hire and show that it does in fact so operate on a regular and frequent basis. Absent the ability to document that the carrier has authority to operate as an interstate carrier for hire and operate the boat in a manner that qualifies for the exemption, no rolling stock exemption is available.

When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify that it is a type of interstate carrier for hire that is not required by law to have an Interstate Commerce Commission Certificate of Authority. If this is the case, the carrier must include its Illinois Commerce Commission Certificate of Registration number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type which is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. See 86 Ill. Adm. Code 130.340(f).

Please see Public Act 93-1033 for important information regarding rolling stock moving in interstate commerce. In addition, you may inquire on the Department's web site for bulletins and other information regarding the exemption.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Debra M. Boggess
Associate Counsel

DMB:msk